

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Plaintiffs,

v.

TATE REEVES, in his official capacity as
Governor of the State of Mississippi, ET AL.,

Defendants.

Case No. 3:23-cv-272-HTW-LGI

**PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION RE
H.B. 1020 § 4 AND § 5**

Pursuant to Fed. R. Civ. P. 65, Plaintiffs respectfully move for a preliminary injunction enjoining Attorney General Lynn Fitch from appointing the CCID Inferior Court prosecutors under H.B. 1020 § 5 and enjoining Chief Justice Michael Randolph from appointing the CCID Inferior Court judge under § 4. As an alternative to enjoining the Chief Justice, if the Court will grant Plaintiffs' pending motion for leave to amend the complaint, the Court can instead enjoin the proposed alternative defendants John/Jane Doe 5 from accepting appointment as the CCID Inferior Court judge, and Greg Snowden and Liz Welch from taking any actions to compensate that judge or designate a location for them to hold court. *See* Dkts. 80-81.¹

¹ As Plaintiffs explained in their October 5, 2023 status report (Dkt. 108 at 3) and at the October 18, 2023 status conference, the Mississippi Supreme Court's *Saunders* decision effectively undermined this Court's September 13, 2023 preliminary oral ruling regarding the Chief Justice's judicial immunity for the H.B. 1020 § 4 appointment. Because the Court has not yet ruled on the motion for leave to amend the complaint, issued a written decision expanding its judicial immunity ruling (Dkt. 45) to the appointment of the CCID Inferior Court judge, or entered final judgment dismissing Defendant Randolph from this claim, Plaintiffs have included him in this motion on the understanding that the Attorney General's Office will continue to defend the law without the need for Defendant Randolph's participation in this case. With the addition and preliminary injunction of proposed defendants Doe 5, Snowden, and Welch, however, there will be no need to seek relief directed at Defendant Randolph. *See* Dkts. 80-81.

This motion is supported by Plaintiffs' Memorandum in Support of Motion for a Preliminary Injunction, the prior record cited therein, the Declaration of Markyel Pittman (attached as Exhibit 1), the Second Declaration of Frank Figgers (attached as Exhibit 2), the Third Declaration of Charles Taylor (attached as Exhibit 3), the Third Declaration of the Hon. Tomie Green (attached as Exhibit 4), miscellaneous evidence cited in Plaintiffs' memorandum (attached as Exhibit 5), and the automatically generated transcripts of the Mississippi Legislature's debates that included H.B. 1020 (attached as Exhibit 6).

As set out in the accompanying memorandum, Plaintiffs have shown that they are likely to succeed on the merits of their equal protection challenge to H.B. 1020's provisions appointing two prosecutors and a judge for the new CCID Inferior Court in Jackson. Plaintiffs have also shown a threat of irreparable injury, for which there is no adequate remedy at law, if H.B. 1020 § 4 and § 5 are not enjoined before the Attorney General and Chief Justice make their appointments (and the appointees accepts their appointments). Further, vacating these appointments after the fact would be more disruptive and burdensome to Jackson's criminal justice system than temporarily enjoining the appointments while the parties litigate this case. Accordingly, Plaintiffs respectfully request that the Court grant this Motion.

Respectfully submitted this 13th day of November, 2023.

/s/ Mark H. Lynch

Eric H. Holder, Jr.,* DC Bar # 303115
Megan A. Crowley,* DC Bar # 1049027
Gary S. Guzy,* DC Bar # 375977
Mark H. Lynch,* DC Bar # 193110
Brenden J. Cline,* DC Bar # 1021317
David Leapheart,* DC Bar # 1032122
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Tel: (202) 662-6000
Fax: (202) 662-6291
eholder@cov.com
mcrowley@cov.com
gguzy@cov.com
mlynch@cov.com
bcline@cov.com
dleapheart@cov.com

Counsel for NAACP

**Pro Hac Vice*

/s/ Carroll Rhodes

Carroll Rhodes, MS Bar # 5314
LAW OFFICES OF CARROLL RHODES
POST OFFICE BOX 588
HAZLEHURST, MS 39083
Telephone: (601) 894-4323
Fax: (601) 894-1464
crhode@bellsouth.net

Joe R. Schottenfeld,* DC Bar # 1735796
**NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED
PEOPLE**
4805 Mt. Hope Drive
Baltimore, MD 21215
Tel: (410) 580-5777
Fax: (410) 358-9350
jschottenfeld@naacpnet.org

Counsel for All Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Brenden J. Cline

Brenden J. Cline